

1 WILLIAM SLOAN COATS (State Bar No. 94864)
VICKIE L. FEEMAN (State Bar No. 177487)
2 SAM O'ROURKE (State Bar No. 205233)
ORRICK, HERRINGTON & SUTCLIFFE LLP
3 1000 Marsh Road
Menlo Park, CA 94025
4 Telephone: (650) 614-7400
Facsimile: (650) 614-7401

**ORIGINAL
FILED**

JAN - 2 2002

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

5 DAVID J. ANDERMAN (State Bar No. 172228)
6 Lucasfilm LTD.
P.O. Box 2009
7 San Rafael, CA 94912
Telephone: (415) 472-3400

8 Attorneys for Plaintiffs
9 LUCASFILM LTD., a California Corporation and
LUCAS LICENSING LTD., a California
10 corporation

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13

14 Lucasfilm LTD., a California corporation
and LUCAS LICENSING LTD., a
15 California corporation,

16 Plaintiffs,

17 v.

18 MEDIA MARKET GROUP, LTD., et al.,

19 Defendants.
20
21
22
23
24
25
26
27
28

CASE NO. C01-4041SC

**DECLARATION OF SAM O'ROURKE IN
SUPPORT OF PLAINTIFFS' REPLY TO
DEFENDANT'S OPPOSITION TO
PLAINTIFFS' MOTION FOR TEMPORARY
RESTRAINING ORDER AND PRELIMINARY
INJUNCTION**

Date: January 4, 2002
Time: 10:00 a.m.
Dept: Courtroom 2, 4th Floor

The Honorable Claudia Wilken

1 I, Sam O'Rourke, declare as follows:

2 1. I am a member of the bar of the State of California and an attorney with
3 Orrick, Herrington & Sutcliffe LLP. I am one of the attorneys for Plaintiffs in this action. I make
4 this declaration in support Plaintiffs' Reply to Defendant's Opposition to Plaintiffs' Motion for
5 TRO and Preliminary Injunction. I have personal knowledge of the facts set forth in this
6 declaration and could and would competently testify to them under oath if called as a witness. I
7 am personally familiar with the relevant files, correspondence and pleadings exchanged and filed
8 in the above-entitled action.

9 2. On December 5, 2001, at 6:10 p.m., Defendant was served with the
10 Complaint in this case, as well as Plaintiffs' TRO papers. A true a correct copy of the Affidavit
11 of Service is attached hereto as Exhibit A.

12 3. Service was effected only after Plaintiffs invested substantial time and
13 effort in locating and serving Defendant. Plaintiffs enlisted the services of several private
14 investigators to locate and serve Defendant.

15 4. On January 2, 2001, I began the process of purchasing Defendant's
16 "Starballz" DVD from Defendant's "starballz.com" website to demonstrate that Defendant is
17 doing business in California. When I clicked on link to purchase the DVD, I was sent to a page
18 that states "Sales tax of 8 % is applied to all orders shipped to California State." A true and
19 correct copy of a printout of that page is attached hereto as Exhibit B.

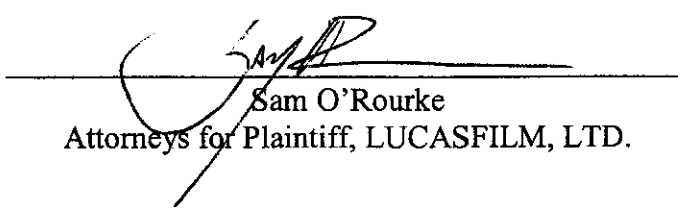
20 5. On January 2, 2001, I conducted a search on the website "dvdplanet.com"
21 using the search term "star." The results of that search listed Defendant's movie "Starballz"
22 directly after Plaintiffs' movie "*Star Wars Episode I: The Phantom Menace (Special Edition)*."
23 Attached hereto as Exhibit C is a true and correct copy of the relevant portion those search results
24 of the "dvdplanet.com" website.

25 6. Counsel for Defendant, Evan Feinberg, called me on December 19, 2001,
26 the same day the Court issued a temporary restraining order against Defendant. Mr. Feinberg
27 informed me that his client, Media Market Group, had no intention of abiding be the terms of the
28

1 temporary restraining order and that MMG would continue to make, sell and distribute the movie
2 Starballz despite the Court's order to the contrary.

3 I declare under the penalty of perjury according to the laws of the United States
4 that the foregoing is true and correct. Executed on Wednesday, January 02, 2002, in Menlo Park,
5 California.

6 ORRICK, HERRINGTON & SUTCLIFFE LLP

7
8 
9 Sam O'Rourke
10 Attorneys for Plaintiff, LUCASFILM, LTD.
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AFFIDAVIT OF SERVICE

UNITED STATES DISTRICT COURT / NORTHERN DISTRICT OF CALIFORNIA

Index No. C 01 4041

LUCASFILM LTD., A CALIFORNIA CORPORATION, ET ANO

Plaintiff

- against -

MEDIA MARKET GROUP, LTD., ET AL

Defendant

State Of New York, County of New York SS:

KAREN BELL

Being duly sworn, deposes and says, that she is over the age of 18 years, is not party to this action and resides in New York.

That on the 5th day of **DECEMBER 2001**, At 6:10 PM

At: **313 CHURCH STREET, NEW YORK, NEW YORK**

Deponent served the annexed: 1) CIVIL COVER SHEET; SUMMONS; COMPLAINT FOR FEDERAL INFRINGEMENT, TRADEMARK INFRINGEMENT, UNFAIR COMPETITION, FALSE DESIGNATION OF ORIGIN, AND TRADEMARK DILUTION; STATE LAW UNFAIR COMPETITION, FALSE ADVERTISING, AND TRADEMARK DILUTION; COMMON LAW TRADEMARK INFRINGEMENT; ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE 2) PLAINTIFFS' EX PARTE MOTION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER; 3) PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ITS EX PARTE MOTION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER; 4) DECLARATION OF DAVID J. ANDERMAN IN SUPPORT OF MOTION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER; 5) [PROPOSED] ORDER

Upon: **MEDIA MARKET GROUP, LTD.**

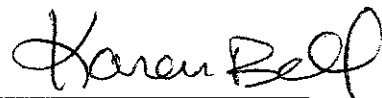
PERSONAL SERVICE ON A CORPORATION

A corporation, by delivering thereat a true copy to **PETER DeMAS** personally; deponent knew the said individual to be *Authorized To Accept Service* thereof.

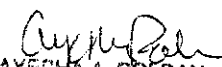
DESCRIPTION - Deponent describes the individual served or spoken to as follows:

Sex: **MALE** Color: **WHITE** Hair: **BROWN** App. Age: **35** App. Ht: **5'8"** App. Wt. **190**
Other identifying features: **GLASSES**

Sworn to before me this 6th
day of **DECEMBER, 2001**



KAREN BELL #100-4468


AYESHA A. ROLDAN
Commissioner of Deeds
City of New York - No. 1-8486
Certificate Filed in New York County
Commission Expires June 8, 2002



MMG Anime - Shopping Cart Display

Below are the contents of your shopping cart. You may either "Shop More," change the quantity and then "Update Cart," or "Checkout" to purchase the carts contents.

Your Cart Contains

Quantity	Item Name	Product SKU	Price	Total
1	Starballz DVD	DV0001	\$14.95	\$14.95
			Sub-Total	\$14.95

* Sales tax of 8 % is applied to all orders shipped to California State.

[Shop More](#)[Update Cart](#)[Checkout](#)

Copyright © 1998-2001 MSBill. All rights reserved



Welcome to DVDPlanet.

DVD Quick Search



USE POWER SEARCH

DVD QuickSearch

Your search on 'star' returned **183 titles**. Titles **141 - 175**.

Legend: ●=In Stock ●=Low Stock ●=Out of Stock ●=Coming Soon ●=Studio Hold
 Stock for **domestic (U.S.)**, online orders only; does not reflect stock status at the retail store or stock for International orders.

Go to page: next 1 2 3 4 **5** 6

New Release

Coming Soon

Recent Releases

DVD Categories

Action/Adventure

Animation

Anime

Children/Family

Comedy

Drama

Foreign

Horror

Music

Musicals

Mystery/Suspense

Sci-Fi/Fantasy

Silent

Special Interest

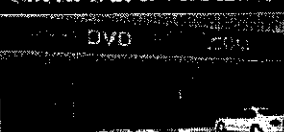
TV Classics

Westerns

ALL CATEGORIES



Check Out DVDPlanet's



Title	Retail Price	Planet Price	Wish List	Add to Cart
● Star Trek TV #35: That Which Survives/ Let That Be Your Last Battlefield 10/23/2001	\$19.99	\$14.99	wish	cart
● Star Trek TV #36: Whom Gods Destroy/ The Mark Of Gideon 10/23/2001	\$19.99	\$14.99	wish	cart
● Star Trek TV #37: The Lights Of Zetar/ The Cloud Minders 11/27/2001	\$19.99	\$14.99	wish	cart
● Star Trek TV #38: The Way To Eden/ Requiem For Methuselah 11/27/2001	\$19.99	\$14.99	wish	cart
● Star Trek TV #39: The Savage Curtain / All Our Yesterdays 12/11/2001	\$19.99	\$14.99	wish	cart
● Star Trek TV #40: Turnabout Intruder / The Cage (2 Versions) 12/11/2001	\$19.99	\$14.99	wish	cart
● Star Trek: First Contact 10/6/1998	\$29.99	\$22.49	wish	cart
● Star Trek: Generations 11/17/1998	\$29.99	\$22.49	wish	cart
● Star Trek: Insurrection 5/11/1999	\$29.99	\$22.49	wish	cart
● Star Trek: The Motion Picture (Special Edition) 11/6/2001	\$29.98	\$22.49	wish	cart
● Star Trek: The Motion Pictures Collection 11/6/2001	\$269.91	\$202.43	wish	cart
● Star Trek: The Original Crew Movie Collection 11/6/2001	\$179.94	\$134.95	wish	cart
● Star Wars Episode 1: The Phantom Menace (Special Edition) 10/16/2001 On Sale!	\$29.98	\$20.99	wish	cart
● Starballz 1/2/2002 Pre-Order	\$29.95	\$20.96	wish	Pre
● Stardom 9/25/2001	\$24.98	\$18.74	wish	cart
● Stardust Memories 7/4/2000	\$19.98	\$14.99	wish	cart
● Stargate (Special Edition / Director's Cut & Theatrical Cut - Repackage) 9/18/2001	\$19.98	\$14.99	wish	cart
● Stargate (Special Edition/ Director's Cut & Theatrical Cut)/ Moon 44 10/23/2001	\$24.98	\$18.74	wish	cart
● Stargate (Special Edition/ Director's Cut & Theatrical Cut) 10/26/1999	\$19.98	\$14.99	wish	cart
● Stargate SG-1 #1 2/29/2000	\$14.95	\$11.21	wish	cart
● Stargate SG-1 #2 5/22/2001	\$14.95	\$11.21	wish	cart
● Stargate SG-1: Season #1 5/22/2001	\$89.96	\$67.47	wish	cart
● Stargaze: Hubble's View Of The Universe 9/26/2000	\$24.99	\$18.74	wish	cart
● Starker Plays Baker: Singers Of Songs, Weavers Of Dreams (Audio Only DVD) 2/22/2000	\$25.00	\$18.75	wish	cart
● Starman 8/25/1998	\$14.95	\$11.21	wish	cart



DVD Deals

Titles Under \$6.00

Titles \$6 - \$10

Titles \$10 - \$15

Titles \$15 - \$20

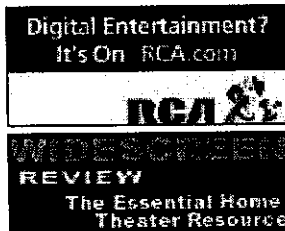
Customer Service

[Login](#)

[Contact Us](#)

[About DVDPlanet](#)

[Privacy Policy](#)



● Starry Night 1/30/2001	\$24.98	\$18.74	wish	cart
● Stars Of Star Wars 7/20/1999	\$14.98	\$11.24	wish	cart
● Stars' Caravan 3/13/2001	\$24.98	\$18.74	wish	cart
● Starship Troopers (Special Edition) 5/19/1998	\$19.95	\$14.96	wish	cart
● Starter Pack DVD Box Set: Ghostbusters/ Godzilla/ Mask Zorro/ Sleepless Seattle 2/1/2000	\$70.95	\$53.21	wish	cart
● Starting Over (Cable Version) 12/11/2001	\$34.99	\$26.24	wish	cart
● Startup.com (Special Edition) 9/18/2001	\$24.98	\$18.74	wish	cart
● Starwoids 10/23/2001	\$19.98	\$14.99	wish	cart
● Superstar 4/11/2000	\$29.99	\$22.49	wish	cart
● Superstar: The Life And Times Of Andy Warhol (Special Edition) 1/23/2001	\$24.98	\$18.74	wish	cart

Go to page: [next](#) [1](#) [2](#) [3](#) [4](#) [5](#) [6](#)

Legend: ●=In Stock ●=Low Stock ●=Out of Stock ●=Coming Soon ●=Studio Hold
Stock for **domestic (U.S.)**, online orders only; does not reflect stock status at the retail store or stock for International orders.